

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated September 14, 2011 which held that the appellant did not meet the statutory criteria of Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55 to qualify for a moving supplement to move his personal belongings within a municipality in B.C. Under s. 55 (2) (a) of the EAPWDR the ministry determined the appellant was not eligible for moving costs because he did not move due to confirmed employment. Under s. 55 (2) (b) of the EAPWDR the ministry found the appellant's request was not to move to another province or country to improve living circumstances. Under s. 55 (2) (c) of the EAPWDR the ministry determined the appellant did move within a municipality, but that his accommodation was not being sold or demolished and a notice to vacate had not been given or it had been condemned. Under s. 55 (2)(d) of the EAPWDR it determined the appellant did move within a municipality, but that his shelter costs would not be significantly reduced as a result of the move. Under s.55 (2) (e) of the EAPWDR the ministry determined that the evidence did not establish that the appellant's move was necessary to avoid an imminent threat to a family's members health. Finally under s.55 (3) the ministry determined that the appellant had not received the minister's approval before incurring the cost and, as a result, the least expensive costs could not be determined before the costs were incurred.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55.

## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included:

- The appellant and his spouse both have Persons with Disabilities status. The family unit is comprised of the appellant, his spouse and a daughter. The appellant's file was opened in January 1984 and the spouse and daughter were added as dependants in April 2007.
- January 9, 2012 the appellant submitted a shelter information form indicating he was moving within his municipality effective February 1, 2012. Rent at the new accommodation would comprise \$750.00 plus \$ 25.73 for utilities as compared to his previous accommodation which was \$712.50 plus \$25.73 for utilities.
- February 29, 2012 the appellant submitted receipts for moving expenses and requested reimbursement for \$433.36 in moving expenses. The request was denied.
- March 5, 2012 the appellant's Request for Reconsideration. The appellant reports that he was required to move because of his spouse's medical condition and her health was in danger. He reports the amount of stairs were difficult for her to manage with an oxygen tank. He states his physician suggested they find suitable accommodation without stairs. The appellant also reports his rent did decrease significantly.

In his Notice of Appeal (NOA) dated March 20, 2012 the appellant indicates he used the most cost effective means of moving as indicated by the quotes and that he pays less rent in his new accommodation.

At the hearing, the appellant reports that his wife was in the hospital due to her health condition of Chronic Obstructive Pulmonary Disease (COPD) and during her release from some hospitalization in late November 2011 her doctor suggested they find suitable accommodation with no stairs. On January 9, 2012 he asked the ministry for a damage deposit respecting some suitable accommodation he had located through his current landlord. The appellant was granted the damage deposit. In response to a question from the panel, the appellant indicated he did not have any discussions with the ministry regarding moving expenses. The appellant subsequently undertook a move on January 22, 2012. He indicates that he rented a truck for 3 days, but because of the amount of household items he had accumulated which had to be moved on a donation basis the rental time was extended to 7 days. The cost of the truck and gas amounted to \$433.36 and against the quotes he pursued in February 27, 2012 from several local moving companies and which he presented to the ministry on February 29, 2012 represents the most cost effective approach. The appellant also in response to a question from the panel indicated his costs in his previous rental accommodation included additional costs for gas and electricity amounting on average to \$180.00 per month and that this cost would be significantly reduced through the move to the new accommodation.

The new evidence submitted by the appellant in his NOA and oral testimony is admitted by the panel under section 22(4) of the Employment and Assistance Act as evidence in support of the information and records that were before the ministry when the reconsideration decision was made.

## PART F – Reasons for Panel Decision

At issue is the reasonableness of the ministry's decision to deny the appellant a moving supplement on the basis that he failed to meet any of the legislative criteria under s.55 (2) of the EAPWDR. Under s. 55 (2) (a) of the EAPWDR the ministry determined the appellant was not eligible for moving costs because he did not move due to confirmed employment. Under s. 55 (2) (b) of the EAPWDR the ministry found the appellant's request was not to move to another province or country to improve living circumstances. Under s. 55 (2) (c) of the EAPWDR the ministry determined the appellant did move within a municipality, but that his accommodation was not being sold or demolished and a notice to vacate had been given or it had been condemned. Under s. 55 (2)(d) of the EAPWDR it determined the appellant did move within a municipality, but that his shelter costs would not be significantly reduced as a result of the move. Under s.55 (2) (e) of the EAPWDR the ministry determined that the evidence did not establish that the appellant's move was necessary to avoid an imminent threat to a family's members health. Finally under s.55 (3) the ministry determined that the appellant had not received the minister's approval before incurring the cost and, as a result, the least expensive costs could not be determined before the costs were incurred.

The following sections of the EAPWDR apply to this appeal:

### **Supplements for moving, transportation and living costs**

55 (1) In this section:

**"living cost"** means the cost of accommodation and meals;

**"moving cost"** means the cost of moving a family unit and its personal effects from one place to another;

**"transportation cost"** means the cost of travelling from one place to another.

(2) Subject to subsections (3) and (4), the minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance to assist with one or more of the following:

(a) moving costs required to move anywhere in Canada, if a recipient in the family unit is not working but has arranged confirmed employment that would significantly promote the financial independence of the family unit and the recipient is required to move to begin that employment;

(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;

(c) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area because the family unit's rented residential accommodation is being sold or demolished and a notice to vacate has been given, or has been condemned;

(d) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality

or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move;

(e) moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit;

(f) transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the *Child, Family and Community Service Act*, if a recipient is given notice of the hearing and is a party to the proceeding;

(g) transportation costs, living costs, child care costs and fees resulting from

(i) the required attendance of a recipient in the family unit at a hearing, or

(ii) other requirements a recipient in the family unit must fulfil

in connection with the exercise of a maintenance right assigned to the minister under section 17 [*categories that must assign maintenance rights*].

(3) A family unit is eligible for a supplement under this section only if

(a) there are no resources available to the family unit to cover the costs for which the supplement may be provided, and

(b) a recipient in the family unit receives the minister's approval before incurring those costs.

(4) A supplement may be provided under this section only to assist with

(a) the cost of the least expensive appropriate mode of moving or transportation, and

(b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate living costs.

The appellant argues that move within his municipality was to improve the living conditions of his wife who is required to live on constant oxygen due to only having 30-40% lung capacity and requiring one level accommodation. His spouse had difficulty with stairs and the move was recommended by the family doctor. The appellant also argues the move to the new accommodation represents less cost to the ministry and that he undertook it in the most economical manner.

The ministry argues the appellant undertook the move without prior approval. It also contends the appellant did not move due to obtaining employment that would promote financial independence; did not move to avoid imminent danger to health and that while the move was within a municipality or unincorporated area or to an adjacent municipality or unincorporated area, it was not required because the rental unit was being sold or demolished and a notice to vacate had been given or it had been condemned or to reduce shelter costs significantly. Finally, that the move was required because the appellant's wife was having difficulty with stairs, but there was no evidence that failure to move would have resulted in imminent danger to her health.

The panel finds also based on the evidence, that the ministry reasonably determined that all the legislative criteria under s.55 of the EAPWDR for a moving supplement have not been met. The panel finds the appellant did not have arranged confirmed employment that would significantly promote financial independence pursuant to s. 55 (2) (a) of the EAPWDR. The panel finds also further to s. 55 (2) (b) of the EAPWDR that the appellant's move was not required to move to another province or country to improve his living circumstances. The panel further finds pursuant to s.55 (2) (c) of the EAPWDR that the move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area was not because his rental unit was being sold or demolished and a notice to vacate had been given or it had been condemned. Further to s.55 (2) (d) of the EAPWDR the panel also finds that while the appellant's move may have resulted in a significant reduction to the appellant's shelter costs respecting gas and electricity costs, there is nothing on the record or any other evidence to corroborate these costs were incurred in the former accommodation. With respect to s.55 (2) (e) of the EAPWDR the panel finds that the appellant's move did not constitute a move within B.C. to avoid an imminent threat to his wife's physical safety as no medical evidence is provided to substantiate that his wife's health was in danger without the move to new accommodation. Finally, the panel finds that the appellant failed pursuant to s.55 (3) (b) of the EAPWDR to obtain the minister's approval before incurring his moving costs. The appellant undertook his move on January 22, 2012 and sought reimbursement after producing receipts and moving quotes late in February that did not allow the ministry to determine that the least expensive costs were incurred.

The panel finds that the ministry reasonably determined that all the criteria under s.55 of the EAPWDR were not met and confirms the ministry's reconsideration decision.